

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 543/2000

Date of Decision : 29.6.2001

B.P.Koli Applicant

Shri D.A.Patil Advocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents

Shri V.S.Masurkar Advocate for the
Respondents

CORAM :

The Hon'ble Smt.Shanta Shastry, Member (A).

- (i) To be referred to the reporter or not ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library. ✓

Shanta Shastry
(SMT.SHANTA SHASTRY)
MEMBER (A)

mrj:

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.543/2000

Friday this the 29th day of June, 2001.

CORAM : Hon'ble Smt.Shanta Shastry, Member (A)

Bhainath Pandurang Koli,
R/o Khochiwade (Koliwada),
Taluka : Vasai, Dist. Thane.

...Applicant

By Advocate Shri D.A.Patil

vs.

1. The Chairman,
Railway Board,
New Delhi.
2. The Assistant Personnel
Officer (Mechanical),
Central Railway,
Headquarters,
Personnel Branch,
C.S.T., Mumbai.
3. The Chief mechanical Engineer
having his office at C.S.T.,
Mumbai.
4. Union of India (through
the Ministry of Railways)
through the Chairman,
Railway Board,
New Delhi.

...Respondents

By Advocate Shri V.S.Masurkar

..2/-

O R D E R (ORAL)

{Per : Smt.Shanta Shastry, Member (A)}

Heard Shri D.A.Patil for the applicant and Shri V.S.Masurkar for the respondents.

2. The applicant had joined the Central Railway in the year 1951 in the Clerical cadre and took voluntary retirement in the year 1972 on account of ill health. According to the applicant he had completed 20 years of service. Since he was under the Contributory Provident Fund Scheme, he was paid the necessary amount of Provident Fund on his retirement. The learned counsel for the applicant submits that the applicant came to know about the Railway Board letter dated 27.1.1998 which issued a clarification regarding those who had retired from service during the year 1957 to 1985 as being entitled to get Ex-gratia payment of Rs.600/- p.m. The applicant, therefore, on this basis is claiming Ex-gratia payment. The applicant accordingly approached the respondents with an application dated 6.8.1998. However, his application was rejected on 12.9.1999 informing him that since he has retired voluntarily, he is not entitled for Ex-gratia. The applicant further approached the Chairman of the Railway Board by making representation but has not received any reply.

3. The learned counsel submits that the applicant has put in 20 years of service, even a person who has resigned from service is entitled to Ex-gratia payment. He, therefore, cannot be




denied Ex-gratia. In this context, the learned counsel has referred to the judgement of the Jabalpur Bench of the CAT in OA.No.623/91 decided on 11.5.1995. In the said case, the applicant who was also a Railway servant had resigned from Railway service after completing 17 years 9 months and 10 days and his claim for pension was allowed by treating that resignation is as good as retirement for the purpose of grant of pension. On the same analogy, the applicant is praying that he may be granted Ex-gratia and whatever payment has been received by him by way of CPF be adjusted against it.

4. Respondents have opposed the prayer on the ground of delay and laches as well as on merits. The respondents have also taken a technical plea of mis-joinder of party stating that the reliefs are to be granted at the level of General Manager and not at the level of Respondents No. 1 & 2 who have no role to play. The applicant has retired in 1972 and has approached this Tribunal in 2000 after 28 years. The application, therefore, suffers from delay and laches and deserves to be dismissed.

5. Coming to the merits of the case, the respondents submit that in the Railway Board's letter dated 13.11.1998 on which the applicant is basing his claim, it has been specifically clarified that the Ex-gratia payment is not to be made to those who retired voluntarily or who were removed. It is to be only for those who superannuated in normal course. In view of this, the applicant who retired voluntarily in 1972 is not eligible for Ex-gratia payment.

6. The applicant pleads that he was not aware of the provisions regarding Ex-gratia payment and having put in 20 years of service, he cannot be denied benefits of this Scheme only because he retired voluntarily. This is unfair. However, he has not challenged the vires of this letter.

7. It is very clear from the letter dated 13.11.1998 that those who have resigned or who have retired voluntarily or who were removed are not eligible for Ex-gratia as per the scheme of the respondents. Instructions had been issued by the Railway Board that Ex-gratia payment of Rs.600/- p.m. w.e.f. 1.11.1997 shall be made to the surviving for the period from 1.4.1957 to 30.11.1985 subject to condition that such retirees had rendered 20 years of continuous service prior to their superannuation for becoming entitled to the Ex-gratia payment. Thus, the scheme was of a much earlier date. The letter of 1.11.1997 is only clarifitary in nature. The applicant has slept over his right and has approached this Tribunal in 2000. Therefore, there is considerable delay in this matter. This being a matter of ex-gratia payment and being a continuous cause of action, even if the delay were to be condoned in the matter, still according to the scheme of the respondents, the applicant is just not eligible. In fact, a similar view was taken by this Tribunal in OA.No.1121/94 in the matter of Smt.Sukharani Biharilal vs. Union of India & Anr. decided on 29.2.2000 . In view of this, the application being devoid of merit, the OA. is dismissed without any order as to costs.


(SMT.SHANTA SHASTRY)
MEMBER (A)